

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED 1

08 AUG 18 PM 12:01

UNITED STATES OF AMERICA,

Magistrate Docket No.

Plaintiff,

08 MJ 2552

v.

COMPLAINT FOR VIOLATION OF:

Miguel Angel FONSECA,

Title 8, U.S.C., Section 1326

Attempted Entry After


Deportation

Defendant

The undersigned complainant, being duly sworn, states:

On or about **August 14, 2008**, within the Southern District of California, defendant, **Miguel Angel FONSECA**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, attempted to enter the United States with the purpose, i.e. conscious desire, to enter the United States at or near the **San Ysidro**, California Port of Entry, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 18th Day of AUGUST, 2008



Barbara L. Major
UNITED STATES MAGISTRATE JUDGE

DOA 8/14/08 ECE

CONTINUATION OF COMPLAINT:

Miguel Angel FONSECA

PROBABLE CAUSE STATEMENT

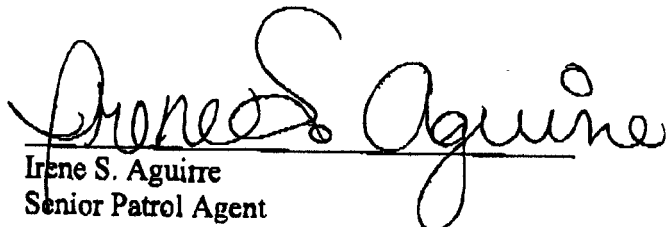
On August 14, 2008, Border Patrol Agent I. Quinones, was performing assigned duties in an area known as "W-2." This area is approximately fifty yards north of the San Ysidro Port of Entry in San Ysidro, California. At approximately 3:30 P.M., Agent Quinones observed three individuals including one who was later identified as the defendant **Miguel Angel FONSECA**, running northbound. Agent Quinones observed the three individuals run north from the Mexican Port of Entry, located south of the International border in Tijuana, Mexico. The entered the United States by running north in the southbound lanes of Interstate 5.

Immediately after seeing these subjects running north, Agent Quinones heard an audible alarm. This alarm is normally activated by Mexican officials as an alert of subjects who are going northbound on the southbound lanes of Interstate 5. Agent Quinones pursued the group with the assistance of other agents. Agent Quinones identified herself as a United States Border Patrol Agent and questioned all three individuals as to their citizenship and nationality. All three individuals admitted that they were citizens and nationals of Mexico without any immigration documentation permitting them to enter or remain in the United States legally. All three individuals, including the defendant were arrested and subsequently transported to Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on April 12, 1999 through Calexico, California. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights and stated that he understood his rights and that he was willing to speak without the presence of a lawyer. The defendant again freely admitted to being a citizen of Mexico previously ordered removed without permission to legally re-enter the United States. He also stated he was going to Los Angeles, California.

Executed on August 16, 2008 at 10:00 a.m.


Irene S. Aguirre
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 2 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on August 14, 2008, in violation of Title 8, United States Code, Section 1326.


Barbara L. Major
United States Magistrate Judge

8/16/08 at 10:20 AM
Date/Time